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## **MONTANA LOCAL GOVERNMENT RETENTION SCHEDULE**

### **DEPARTMENT: CLERK OF DISTRICT COURT**

<b>ITEM</b>	<b>RECORD TITLE AND DESCRIPTION</b>	<b>RETENTION TIME</b>	<b>COMMENTS</b>
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#### **GUIDELINES ON RECORD RETENTION SCHEDULE**

It is not the intention of this retention schedule to make each court dispose of their paper records and court files. The main objective for a record retention schedule is to determine which records and documents to keep that are essential in your office and to be able to dispose of the non-essential records and documents. If your courthouse has the space and you want to keep all the original paper records and court files, you may do so.

There are two separate aspects to microfilming and electronic storage.

**First** is the microfilming or electronic storage of current court documents on a regular basis. These are duplicate records of the paper documents that are in the original court file. It is recommended that these documents be microfilmed on a regular basis, such as daily or weekly. The original back up system for these documents was to type the documents verbatim in the big bound books. These are the books that may be titled "Inventory and Appraisements"; "Probate Orders and Decrees"; "Criminal Convictions", etc.

The purpose of microfilming or electronic storage is to be able to provide a copy of essential documents in case of a major disaster, or if the file is elsewhere, such as the Supreme Court, or checked out of the office, etc. It is recommended that a security copy of the microfilm or electronic tape, disc, etc. of the documents be kept off site in a secure location.

Optical imaging or electronic storage may be used for daily management, storage and retrieval for documents whose retention period is 10 years or less. For records with a retention period of 10 years or more, records must be retained in paper form or on archival quality microfilm. (ARM 44.14.202)

A minimum guideline for documents recommended to be microfilmed or stored electronically as a backup to the original court documents is:

Decrees of Adoption

Criminal Information and Criminal Convictions (Sentence/Judgments)

Civil- Judgments and Executions or Attachments- (when funds are received)

Probate- Wills, Bonds, Letters, Inventory and Appraisements; Decrees of Distribution or other closing documents.

Marriage Licenses: copy of the original marriage license. (The original is returned to the parties after the marriage is performed and the license is recorded in your office)

The documents listed above are totally separate from the second phase, which is the main focus of this retention schedule. This section deals with the microfilming or storage of essential records and removal and destruction of non-essential documents and records in accordance with the guidelines from the Montana Local Government Records Schedule. The schedule for District Courts is developed by the Local Government Records Committee.

Many court offices are short of storage space, and it has become necessary to either clean out un-necessary records and non-essential documents from the court file and to transfer these records or court documents from their original

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FOR RECORDS DISPOSAL SEE MCA 2-6-403

\*COM is Computer Output Microfilm/fiche

\*\*CD-ROM is not recommended at this time for long term or permanent record retention. The technology needed to read it may not be available, and/or the information may not get migrated, for use in future technology. See ARM 44.14.201-203

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paper form to microfilm. This is where the record retention schedule is necessary. The original paper documents may be disposed of when the records are permanently stored on microfilm, which uses less space. The court records will still be able to be retrieved for information or copying, but it may not be in the original paper form. To put it simply, a “permanent record” may be stored in (a) paper form OR (b) microfilm format. At this time, microfilm is the only long-term storage method approved by the LOCAL GOVERNMENT RECORDS COMMITTEE GUIDELINES other than the original paper documents.

The basic fundamental necessity is that you can find a record, retrieve it, and be able to provide copies, whether it is stored on paper or microfilm. It is important that you keep a good index, cross-reference, and retrieval system.

After the proper time limit has run, (in most cases 10 years), the original court records or court file can be purged of some paper documents. Some documents or records do not need to be retained, either in paper, microfilm, or electronic format. These documents or records may be totally disposed of at the end of the retention period. There is no purpose in saving them. These items are listed on the retention schedule as PURGED LIST FOR CASE FILES.

If you have questions regarding the retention of documents, use common sense. The basic intent is to keep essential records and documents. If there is a document that is important to the case, it should be kept. Some people have a general office policy that “all orders signed by a Judge should be kept”. In some respects that is understandable, but once a case is completed and the 10-year retention time has expired, is it not necessary to keep (for example) an order for extension of time. Any argument over time issues would have been handled while the case was active. It is also not necessary to keep documents such as Notices of Depositions, Notice to Creditors, Creditors claims, etc.

After purging and/or microfilming the records or court file, you will end up with a streamlined record or court file that contains only the essential documents. It is important that you keep a good index, cross-reference and retrieval system.

The permanent records or documents in court files that are to be retained on a permanent basis can be microfilmed or stored in accordance with the guidelines for storage or records from the Montana Local Government Records Committee. Administrative rules of Montana (ARM) 44.14.202 gives the authority to dispose of the paper documents after they are microfilmed.

You may also be maintaining other records or documents that are not officially court files. Refer to the retention schedule for their retention time, or refer to the Montana Local Government Records Committee General Schedule #1 if the item is not listed in the District Court Retention Schedule, such as office policy, procedures, etc.

The complete schedule may be accessed on the Internet at any of these sites:

[www.his.state.mt.us/front/html](http://www.his.state.mt.us/front/html) ; [www.state.mt.us/sos/idenx/htm](http://www.state.mt.us/sos/idenx/htm) ; [www.state.mt.us/localgov.htm](http://www.state.mt.us/localgov.htm) OR,  
contact the state archivist at the Montana Historical Society

Dated April, 2000

Montana Association of Clerks of District Court Retention Schedule Committee:

Jean Thompson, Yellowstone County, Chair

Lorrain Van Ausdol, Gallatin County

Emile Kimmet, Teton County

Kay Johnson, Blaine County

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### GENERAL INFORMATION

#### Title 2, Chapter 6, Public Records

- Part 1, Public Records
- Part 2, Public Records Management
- Part 3, Records of Elected Executive Branch Officer
- Part 4, Local Government Records

#### Title 3, Chapter 1

- Part 1, Courts- Definitions and General Powers
  - 3-1-114- Definitions of “Document”, “Electronic Filing” and “Electronic storage of documents.
  - 3-1-115- Electronic filing and storage of documents – rules

#### Title 3 , Chapter 5

- Part 5, Clerk of the District Court
  - 3-5-5-1 – General Duties – electronic filing and storage of court records

#### Title 7, Chapter 4

- Part 2, County Officers in General
  - 7-4-2221 – Manner of keeping records and storing documents
  - 7-4-2222 – Substitution of reproduction for original document
  - 7-4-2223 – Duplicate records – safe storage of one copy

### ADMINISTRATIVE RULES OF MONTANA

#### Record Management Bureau – Sub-Chapter 1

#### Local Government Records Retention (see attached copies)

- 44.14.201 Use of Electronic Records Storage Systems for Local Government Documents
- 44.14.202 Storage Requirement for Electronically Stored Documents with Greater than 10 Year Record Retention Schedule
- 44.14.203 Storage Requirement for Electronically Stored Documents with Less than 10 year Records Retention Schedule

1.	ADOPTION	Permanent	Restricted access.
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	CASE FILES AND INDEXES: Matters relating to adoption, annulment or revocation of adoption. This may include: Petition for Adoption, consent of mother and/or father, minute entries, reports from adoption agencies, orders, and final orders and decrees.		Confidential case files 42-6-101 MCA
2.	AFTERCARE HEARINGS/REVIEW HEARINGS- See Juvenile or Dependent/Neglected	Same as case type	
3.	ATHLETIC COMMISSION PAPERS: Appointments to miscellaneous athletic commissions.	See: MISCELLANEOUS INSTRUMENTS- comments	May not be in some counties. Review for historical value. Consult State Archivist prior to disposition
4.	BLOTTER BOOKS-: See- Minutes of Court Proceedings. Handwritten minutes documenting the court proceedings on a given day.	Permanent	
5.	BONDS- Includes: Civil; Criminal; Probate; Irrigation District bonds.	Expired + 9 years	
6.	BOND INDEX	9 years after last entry	
7.	CALENDAR BOOKS/ COURT CALENDARS: Information in these may include the following: cause number, names of plaintiff, defendant, and judge, charge, date, name of attorneys, action, status of cause. If it is Criminal Calendar, may show date bound over, when indicted, date arraigned, fines, pleas verdict, judgment of court and remarks.	Permanent	
8.	CASE FILES -SEALED; DISMISSED; or EXPUNGED FILES: These are files that have been ordered sealed, dismissed or expunged by the courts. These may be any type of case, such as: Adoption, civil, criminal, probate, sanity Developmentally disabled.	Permanent	Confidential after they have been sealed, dismissed, or expunged. The status of these may be reversed by the judge.
9.	CIVIL CASE FILES: Permanent records include:	Permanent except items on purge list	Note: some Dissolutions may be confidential.

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	<ul style="list-style-type: none"><li>• Answers, Amended answers</li><li>• Certificate of Liens</li><li>• Complaint, Amended complaints</li><li>• Executions and Sheriff's Sales</li><li>• Judgment and/or Orders disposing of cases</li><li>• Jury Verdict</li><li>• Motions for Summary Judgment and Responses and Orders on Motion for Summary Judgment and other motions support by briefs and orders</li><li>• Warrants for Distrain</li></ul> See: Dissolution of Marriage-Domestic Relations Cases		see MCA 50-15-122  Related sections: Exhibits, Discovery
10.	CONCEALED WEAPONS See Miscellaneous a. Index b. Permits	a. 2 years after expiration of last entry in book. b. Expiration +2 years	MCA 45-8-321 transferred issuance to the county sheriff office MCA 45-8-322- sheriff shall keep permits 4 years
11.	CORONERS INQUEST FILES- Records documenting circumstances of suspicious deaths. Includes documents, records and indexes.	Permanent	MCA 46-4-206
12.	CORRESPONDENCE- <i>See General Records Schedule</i>		
13.	COURT JOURNALS: See Minutes of Court Proceedings	Permanent. **	MCA 3-5-501 May be kept by electronic means according to MCA 3-1-114 & MCA 3-1-115
14.	COURT REPORTER NOTES- Includes steno notes, tapes and diskettes	10 years <b>MCA 3-5-603</b>	
15.	CRIMINAL CASE FILES; and EXTRADITION (Authorization and documentation of a prisoner from one	Permanent except items on purge list	<b>Consult State Archivist prior to disposition</b>

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	location to another) Permanent Records include: <ul style="list-style-type: none"><li>• Indictment Record.</li><li>• Informations, Amended Informations</li><li>• Plea Bargain Agreements</li><li>• Notice of Intent-Confidential (Persistent Felony Offender-46-13-109 MCA)</li><li>• Pre-Sentence Investigations (confidential)</li><li>• Jury verdict (if applicable)</li><li>• Sentence/Judgment, including amended sentence or amended judgments</li><li>• Petitions for Revocation</li><li>• Sentence /Judgment on Revocations</li><li>• Search Warrants-confidential until Sheriff's return it filed. Also see 46-5-310 MCA</li><li>•</li></ul>		Some documents are confidential- Status of Dismissed cases are confidential 46-18-204 MCA 44-5-103 MCA Criminal Justice Information act Title 44, Chapter 5 Related sections: IS – Investigative Subpoena
16.	DATE BOOK: Shows Judge/Attorney's appointments, dates, and cost for time/travel.		Review for historical value. Consult State Archivist prior to disposition.
17.	DECREE OF SETTLEMENT: May be part of a probate, guardianship, or conservatorship file	Permanent	
18.	DEPENDENT /NEGLECT OR YOUTH IN NEED OF CARE Cases pertaining to minors.	May be destroyed after youth or youngest child is 18 with approval of the court.	Confidential
19.	DIARY See Date Book.		
20.	DISBARMENTS & SUSPENSIONS: See Miscellaneous	5 years	
21.	DISCOVERY All discover items, including interrogatories, answers to interrogatories, and depositions.	Notify attorney in writing, after appeal period has expired without appeal, or after remittitur has been filed, to claim discovery items, which said attorney has submitted, within 30 days. If said items are not timely claimed, the clerk may dispose of said items without further notice.	Filing of Discovery- Title 25 Chapter 19, Rule 4 Uniform District Court Rule #4
22.	DISSOLUTION OF MARRIAGE-DOMESTIC RELATIONS CASES	Permanent except for items on the purge list.	Note: some Dissolutions may be confidential.

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	Permanent records include: a. Petition for dissolution of marriage b. Response to petition c. Decree of dissolution of marriage d. Property settlement agreement & related documents e. Parenting plan & related documents-also see 40-4-234 (6) MCA f. Orders on modification to decree of dissolution or to parenting plan		see MCA 50-15-122
23.	DOCKET BOOKS: See Court Journals; Register of Action Books: All case types	Permanent	
24.	EXHIBITS-Documents or items entered as evidence in a court file. The exhibits may be in any type of case, including: civil, criminal, or probate	Exhibits may be withdrawn by party offering them 30 days after judgment is final.	For the Clerks to petition for the disposal of exhibits, See: Title 25 Chapter 19, Rule 12 MCA Uniform District Court Rule #12
25.	EXTRADITION: See Criminal and Extradition		
26.	FISCAL RECORDS a) Cash books b) Cash request forms c) Civil Receipt books d) Claims e) Creditor Claim Books f) Daily check report g) Daily receipt report h) Disbursement records i) Fee books j) Payroll k) Receipts- Criminal; disbursements; document; monthly l) Receipts- Juror-Certificate & travel; witness; reports m) Receipts- Probate n) Timesheets- Jury o) Timesheets-employees p) Trust fund-receipts, warrants, q) Vouchers-Estate and Guardianship r) Warrants s) Warrant Registers t) Warrant Stubs	Audit +7 for all items <b>except:</b> <b>d.</b> 1 year-this is a duplicate record, the original is in the Clerk & Recorders office.  <b>j.</b> See General Schedule <b>s.</b> Permanent if this is the only copy the county has. If this is a department copy, audit + seven years.  <b>f,i, and l,-</b> Audit + 1 year. These are copies of reports to the Supreme Court Administrator's office. The original reports will be retained in Helena according to their guidelines.	3-5-501 MCA Records may be kept on computer. 3-1-114(3) Electronic storage of documents  Also see: Trust Fund Journals & Ledgers  Also see: Jury for jury & witness warrants.
27.	GUARDIAN AND CONSERVATORSHIP RECORDS – see Probate records. Prior to 1996, these were filed in Probate series.	Permanent	May contain guardian bond for guardianship of minors.
28.	INDEX BOOKS/INDEX CARDS –all case files. Same as: Register/Docket, or Calendar books	Permanent **	

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29.	INQUEST RECORDS: See Coroners Inquests files Records documenting circumstances of suspicious deaths.	Permanent	MCA 46-4-206
30.	INSANITY –MENTAL HEALTH-see SANITY	Permanent except items on the purge list.	Confidential MCA 53-21-103 & MCA 53-21-166
31.	INVENTORY AND APPRAISEMENT BOOKS-see PROBATE RECORDS	Permanent	MCA 72-3-607(3).
32.	INVESTIGATIVE SUBPOENAS- Authorization to search private records to determine if a criminal case should be filed	May be destroyed after 10 years with the approval of the court or county attorney.	Confidential
33.	IRRIGATION DISTRICT CASE FILES. May be created from civil case files or other case files. Includes examination reports.	Permanent	
34.	JOURNALS-See Minutes of Court Proceedings		
35.	JUDGMENT BOOKS/DOCKETS/JUDGMENT AND TRANSCRIPT RECORD. Includes all Civil and Criminal Judgments and decrees.	Permanent	3-5-507 MCA “the Clerk must keep a book to be called the Judgment Book in which judgments must be entered.  3-5-508 MCA describes the judgment docket and the required format.
36.	JURY a. Registered Voter Lists- Title 3 Part 4 MCA b. Jury year trial lists c. Individual trial list d. Juror Questionnaires e. Jury warrant records f. Witness warrant records	a. until superseded b. until superseded c. 1 year d. until superseded e. audit + 7 f. audit + 7	
37.	JUVENILE DOCKET/INDEX BOOKS: Lists documents entered for a specific juvenile files	Permanent	<i>Restricted access</i>
38.	JUVENILE-CASE FILES: Includes Delinquent Youth and Youth in Need of Intervention.	Case sealed 3 years after supervision ends, or if	These files are not considered a permanent



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		extended jurisdiction, must be sealed upon termination of extension  May be destroyed 10 years after date of sealing with approval of the court or county attorney. 41-5-216 MCA	file due to the fact the files may be totally destroyed after the proper time has expired and the proper procedure is followed.
39.	<b>MARRIAGE RECORDS</b> a. Applications b. Blood Test c. Declaration of Marriage d. Index e. Licenses f. License order of corrections	a. 2 years b. Dispose of after license is issued c. Permanent d. Permanent e. Permanent f. Permanent	Some information is confidential. see MCA 40-1-107; 50-15-101; 50-15-122
40.	<b>MENTAL HEALTH:</b> See Sanity/Insanity	Permanent except items on purge list	Confidential case files 53-21-103 MCA & 53-21-166 MCA
41.	<b>MINUTES OF COURT PROCEEDINGS</b> May also be called: Blotter books Court journals Docket books Minute books Notes of ruling Minutes (typed formal minutes)  Note: the official record for the minutes of the court proceedings is the permanent record. All other copies, including hand written drafts, do not need to be a permanent record.  Note: notes taken by a judge on any specific case are not a permanent record and are usually not part of the court file.	Permanent MCA 3-5-501	May be kept by electronic means according to 3-1-114 MCA & 3-1-115 MCA
42.	<b>MISCELLANEOUS:</b> a. Disbarments & Suspension -notices from the Supreme	a. 2 years	

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	<p>Court</p> <p>b. Supreme Court orders and changes on rules etc.</p> <p>c. Juvenile Committee Appointments</p> <p>d. Juvenile Probation officer, miscellaneous</p> <p>Note: there is a wide variety of miscellaneous documents too numerous to mention, and the documents and filings differ from county to county. The person in charge of record retention should categorize the miscellaneous document. Is it a type of court case; is it a miscellaneous District Court Order; is it an original document that needs to be retained. The retention schedule for that type of category should then be followed.</p>	<p>b. 5 years</p> <p>c. 5 years</p> <p>d. 5 years</p>	
43.	MOTHERS PENSION a. Applications b. Record books c. Reports		Obsolete record. Review for historical value. Consult State Archivist prior to disposition.
44.	MOTION BOOKS: Same as Court Calendar/CALENDAR BOOKS Includes Change of Venue	Permanent	
45.	NATURALIZATION RECORDS a. Declaration of Intention b. Index books c. Petition and Record d. Certificate of Citizenship	Permanent	
46.	NOTICE TO CREDITORS: In Probate files. May include Order for Proof of publication to public for all claims against deceased estate, and associated documentation	Permanent	
47.	OATHS OF OFFICE		Duplicate record. Original in C&R office
48.	ORDER APPOINTING ADMINISTRATORS/APPRAISERS: Part of the Probate file.	Permanent	
49.	ORDER APPOINTING DAY/ORDER FIXING DAY: In Probate file	10 year rule	
50.	ORDER APPOINTING GUARDIAN: In Probate file	Permanent	
51.	ORDER BOOK PROBATE COURT	Permanent	
52.	ORDER BOOKS: Contains orders for various types of cases, shows cause number, date, names of parties involved in cases, judges names, action of order, Clerk and Deputy's name	Permanent	
53.	ORDER CONFIRMING SALE OF REAL ESTATE: In Probate case	Permanent	

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54.	ORDER FIXING DAY/ORDER APPOINTING DAY: See Order Appointing Day In Probate file	10 year rule	
55.	ORDER MISCELLANEOUS: Includes appointments and miscellaneous orders from the judges.	Permanent	
56.	ORDER OF CONFINEMENT-In Sanity file.	Permanent	Confidential
57.	PRE-SENTENCE REPORTS: Evaluation of person convicted of a crime, before being sentenced	Permanent	Confidential.
58.	<p>PROBATE RECORDS: May include-probate of estates, guardianship of minors and incompetency.</p> <ul style="list-style-type: none"><li>a. Wills</li><li>b. Application to open probate</li><li>c. Order to open probate</li><li>d. Letters appointing personal representative(s)</li><li>e. Inventory and appraisement or acknowledgement of receipt of inventory and appraisement</li><li>f. Final account</li><li>g. Documents that relate to the distribution of the estate</li><li>h. Decree of distribution/ final discharge or decree or order to close estate or personal representative's sworn statement to close the estate.</li></ul> <p>PROBATE PURGE LIST</p> <ul style="list-style-type: none"><li>a. Affidavits of Publication</li><li>b. Creditors claims</li><li>c. Notice to Creditors</li><li>d. Notice of Hearings</li><li>e. Orders for continuance</li><li>f. Orders granting extension of time</li><li>g. Orders setting time and place for hearings</li><li>h. Orders vacating hearings</li></ul> <p>Documents not pertinent or relevant to the probate and final settlement and distribution of the estate <u>may</u> be purged in accordance with the 10 year rule.</p>	<p>Permanent except items on PURGE LIST.</p> <p>Inventory &amp; appraisement 72-3-607 MCA</p> <p>10 years for all items on Probate Purge List</p>	<p>Other related sections: Wills</p>
59.	PUBLIC ADMINISTRATOR REGISTER: Report of activity by public administrator in Probate cases.	Permanent	
60.	PURGE LIST FOR CASE FILES: All discovery items-if not disposed of after appeal period	10 years	May be purged if they have not already been

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	has expired without appeal, or remittitur was filed. Bills of Exception Child support guidelines-If not a part of the decree of dissolution Correspondence Interrogatories if not disposed of after appeal period has expired. Minute entry <i>copies</i> Motion to dismiss Praecipes Proposed findings of fact Refused or withdrawn jury instructions Summons and return of service Tax reports Vouchers		purged from the file.  These do not need to be retained in/ on paper, microfilm, or electronic storage and may be disposed of at the end of the retention period.
61.	REGISTER OF ACTION BOOKS/DOCKET BOOKS- all case types. Same as Docket books; Index books/Index Cards-	Permanent	
62.	SANITY CASE FILES AND INDEX- May be called Insanity; Mental Health	Permanent except items on purge list	Confidential case files 53-21-103 MCA & 53-21-166 MCA
63.	STUDENT CERTIFICATES: Certificates from Law School dean attesting to the moral character and legal competence of students.	2 years	
64.	TERMINATED PERSONNEL FILES: See General Schedule		(Note- the General Schedule is in the process of being revised to include personnel files.)
65.	TRANSCRIPT ON APPEAL- The transcript on appeal returned in Criminal cases is a copy.	Not a permanent record- the transcript on appeal returned in criminal cases is a copy	The original of every Transcript on Appeal is retained by the Supreme Court Clerk's Office.
66.	TRUST FUND JOURNALS/LEDGERS: a. Child support payment records b. Restitution and criminal payment records	Permanent	
67.	YOUTH IN NEED OF CARE: See: Dependent/Neglect Youth in Need of Care		
68.	YOUTH IN NEED OF INTERVENTION: See Juveniles		
69.	URESA- In Civil Cases; Usually handled by Child Support division in state.	10 years	<i>Obsolete title but records still may be</i>

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			<i>stored with this title.</i>
70.	WATER COURT/WATER RIGHTS FILES: Determination of water rights. These may have started as Civil cases, now designated as Water Court/Water Rights etc. files	Permanent	
71.	WATER COMMISSIONER REPORTS:	Permanent	
72.	WILLS AND INDEX a. Wills probated b. Wills filed for safekeeping.	a. Permanent b. Until removed, probated, or superseded. If superseded, a Court Order must be obtained before disposal.	a. Public record b. Confidential